

~~CONFIDENTIAL~~*New Compensation System*

19 November 1987

NOTE TO: DDA

FROM

[] OCA

SUBJECT: Changes to Agency Personnel Management System.

1. Attached is the final unclassified version of HR 2112, the Intelligence Authorization Act, and the accompanying Conference Report. (The classified annex has yet to arrive.)

2. I have clipped the pages pertaining to personnel management, and highlighted those paragraphs pertaining to the three objectives you wanted [] and I to accomplish. We clearly achieved at least two of the objectives. The study will be done by NAPA rather than by a Presidential Commission, and the final report will be classified. Although the NAPA study is not due until January 1989, we managed to get language which calls for interim reports in May and August of 1988. What we did not get was language which would not require the Agency to report or consult on every change, large or small, we make to our personnel management system. I can not tell you how many times we made the argument that micro-managing the Agency is neither efficient nor the purpose of oversight.

3. Now that EXCOMM has met and approved several modifications in the personnel management system, short of the full changes proposed in the Gray Book briefed to Congress, we need to consider when and what the oversight committees need to be told. D/OCA has already asked me if we intend to brief on the EXCOMM decision.

No decisions made.

cc: D/OP
DD/CAP/OP

~~CONFIDENTIAL~~*We lost every point in the conference language.*

section 221(a), except that the computation of the annuity of the participant under such section shall be at least the smaller of (A) 40 percent of the participant's average basic salary, or (B) the sum obtained under such section after increasing the participant's service of the type last performed by the difference between the participant's age at the time of death and age sixty.

"(3) Notwithstanding paragraph (1), if the participant had a former spouse qualifying for an annuity under section 222(b), the annuity of a widow or widower under this section shall be subject to the limitation of section 221(b)(3)(B), and the annuity of a former spouse under this section shall be subject to the limitation of section 222(b)(4)(B)."

(b)(1) Section 221(o)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by inserting "232(b)," after "222, 223."

(2) Section 304 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(A) in subsection (b) by inserting "and (3)" after "subsection (c)(2)"; and

(B) in subsection (c)—
(i) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(ii) by inserting after paragraph (2) a new paragraph as follows:

"(3) Section 232(b)."

(3) Section 14(a) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403n(a)) is amended by inserting "232(b)," before "234(c), 234(d)."

(c)(1) Except as provided in paragraph (2), the amendments made by this section shall take effect on November 15, 1982, the effective date of the Central Intelligence Agency Spouses' Retirement Equity Act of 1982.

(2) The amendments made by subsection (b)(2) shall take effect on January 1, 1987, the effective date of the Federal Employees' Retirement System Act of 1986.

(d) Nothing in this section or any amendment made by this section shall be construed to require the forfeiture by any individual of benefits received before the date of the enactment of this Act.

(e) Nothing in this section or any amendment made by this section shall be construed to require a reduction in the level of benefits received by any individual who was receiving benefits under section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees before the date of enactment of this Act.

TITLE V—ENHANCED COUNTERINTELLIGENCE AND SECURITY CAPABILITIES

REPORT ON ADMISSION OF CERTAIN ALIENS

SEC. 501. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.

FBI NEW YORK FIELD DIVISION EMPLOYMENT PLAN

SEC. 502. (a) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a study to ascertain the effect on recruitment, retention and operations of employees of the New York Field Division of the Federal Bureau of Investigation caused by the usual living expenses associated with such employment.

(b) No later than 60 days after the enactment of this Act, the Director of the Federal Bureau of Investigation and the Director of

the Office of Personnel Management shall submit to the Congress a report setting forth the results of the study described in subsection (a) and a plan for remedying problems identified by the study, including, as appropriate, additional compensation or other means of defraying the costs of employment in the New York Field Division.

TITLE VI—DEFENSE INTELLIGENCE PERSONNEL IMPROVEMENTS

DIA CIVILIAN UNIFORM ALLOWANCE

SEC. 601. (a) COMPARABILITY WITH STATE DEPARTMENT EMPLOYEES.—Chapter 83 of title 10, United States Code, is amended by inserting at the end thereof the following new section:

"§ 1606. Uniform allowance: civilian employees

"(a) The Secretary of Defense may pay an allowance under this section to any civilian employee of the Defense Intelligence Agency who—

"(1) is assigned to a Defense Attaché Office outside the United States; and

"(2) is required by regulation to wear a prescribed uniform in performance of official duties.

"(b) Notwithstanding section 5901(a) of title 5, the amount of any such allowance shall be the greater of the following:

"(1) The amount provided for employees of the Department of State assigned to positions outside the United States and required by regulation to wear a prescribed uniform in performance of official duties.

"(2) \$360 per year.

"(c) An allowance paid under this section shall be treated in the same manner as is provided in subsection (c) of section 5901 of title 5 for an allowance paid under that section."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"1606. Uniform allowance: civilian employees."

EXTENSION OF SPECIAL TERMINATION AUTHORITY FOR CERTAIN DOD INTELLIGENCE EMPLOYEES

SEC. 602. (a) DEFENSE INTELLIGENCE AGENCY.—Section 1604(e)(1) of title 10, United States Code, is amended by striking out "during fiscal years 1986 and 1987" and inserting in lieu thereof "during fiscal years 1988 and 1989".

(b) MILITARY DEPARTMENTS.—Section 1590(e)(1) of such title is amended by striking out "during fiscal year 1987" and inserting in lieu thereof "during fiscal years 1988 and 1989".

REQUIREMENTS TO DISCLOSE ORGANIZATIONAL AND PERSONAL DATA: DIA EXEMPTION

SEC. 603. (a) Chapter 83 of title 10, United States Code, is amended by inserting the following new section:

"§ 1607. Exemption from disclosing organizational and personal data

"Notwithstanding the provisions of any other law, and except as provided herein and as required by section 552 or section 552a of title 5, United States Code, the Defense Intelligence Agency shall not be required to disclose the organization or any function of the Defense Intelligence Agency or the names, official titles, occupational series, grades, salaries or numbers of personnel employed by such Agency. This section shall not apply to information provided the Congress."

TITLE VII—STUDY OF INTELLIGENCE PERSONNEL SYSTEMS

SEC. 701. (a) The Director of Central Intelligence shall undertake to contract with the National Academy of Public Administration (hereinafter referred to as the Academy) for an objective study which shall be classified and which shall consist of a comprehensive

review and comparative analysis of all personnel management and compensation systems affecting civilian personnel of agencies and entities of the intelligence community.

(b) In conducting the study described in subsection (a), the Academy shall determine the adequacy of existing personnel systems to further the ability of intelligence agencies or entities to perform their missions, and make such recommendations for legislative, regulative or other changes as the Academy determines advisable.

(c) The study described in subsection (a) shall be completed in final form no later than January 20, 1989 and such study, and any interim report of such study, shall be transmitted upon receipt by the Director of Central Intelligence to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) Of the amount available to the Intelligence Community Staff for fiscal year 1988 under Section 201, not more than \$500,000 shall be available for the study described in subsection (a).

(e) The Director of Central Intelligence, the Director of the Intelligence Community Staff, and the heads of the elements of the intelligence community shall provide such support and appropriate access to necessary information as the Academy may require to complete the study described in subsection (a).

TITLE VIII—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 801. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 802. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

TITLE IV—MOUNT ALTO EMBASSY SITE

ASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY

SEC. 901. (a) REVIEW AND ASSESSMENT.—The Secretary of Defense shall review and assess the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia. The Secretary shall submit to Congress a report on such review and assessment not later than 90 days after the date of the enactment of this Act.

(b) DETERMINATION OF CONSISTENCY WITH NATIONAL SECURITY.—The report required by subsection (a) shall include a determination by the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Government of the Soviet Union is consistent with the national security of the United States.

(c) CLASSIFICATION OF REPORT.—The report required by subsection (a) shall be submitted in both classified and unclassified form, and the determination required by subsection (b) shall be submitted in an unclassified form.

(d) LIMITATION OF DELEGATION.—The Secretary of Defense may not delegate the duty to make the determination required by subsection (b).

November 10, 1987

CONGRESSIONAL RECORD — HOUSE

H 9933

Agency civilian employee without regard to normal Federal personnel termination procedures.

Section 602 is identical to Section 502 of the Senate amendment. Section 502 of the House bill would have extended this authority only for fiscal year 1988.

The conferees have agreed to consider permanent extension of DIA termination authority based on the findings and recommendations of the study on intelligence personnel systems to be performed by the National Academy of Public Administration pursuant to Section 701 of the conference report.

SECTION 603

Section 603 of the conference report would exempt the Defense Intelligence Agency from any requirement to disclose information on its organization, functions, or personnel, except as required by the Freedom of Information Act or the Privacy Act.

Section 603 of the conference report is identical to Section 505 of the Senate amendment except that the exemption from disclosure would not apply to the requirements for record searches and disclosure of the Freedom of Information Act and the Privacy Act. The House bill contained no comparable provision.

The purpose of Section 603 is to permit DIA to avoid various executive branch personnel reporting requirements to which CIA and NSA are not required to respond. It will permit the DIA to protect classified personnel data from inappropriate dissemination throughout the executive branch. At present, the DIA is required to submit personnel data which is classified but which receiving executive branch offices cannot securely handle or use. The conferees determined that it was appropriate to remove the requirement for classified submissions by DIA in connection with such internal executive branch reports, but unnecessary to exempt DIA from either the Freedom of Information Act or the Privacy Act, since compliance with those statutes has not been a problem for DIA and because both statutes provide adequate protection for classified information.

TITLE VII—STUDY OF INTELLIGENCE PERSONNEL SYSTEMS

SECTION 701

Section 701 of the conference report requires the Director of Central Intelligence to contract with the National Academy of Public Administration to perform an objective classified study of personnel management and compensation systems affecting civilian personnel of the United States intelligence community.

Section 601 of the House bill would have created a Commission on Intelligence Personnel Systems to review personnel recruitment, retention, management and compensation programs of the U.S. intelligence community. The commission would have been made up of three members, one appointed by the President, another by the Speaker of the House, and a third by the Majority Leader of the Senate. The House felt the Commission was necessary to provide a comprehensive review of current programs; assess the need for changes, especially those required by the unique circumstances of intelligence activities; and to present recommendations to the Congress for necessary changes after considering the potential inequities the proposed changes would create either among intelligence agencies or between the intelligence community and the Federal Civil Service. The Senate amendment had no comparable provision.

The conference agreement provides for the conduct of the study that would have

been required by the House bill except that under the conference agreement, the study shall be conducted by the National Academy of Public Administration (NAPA), an independent Federally-chartered institution with significant expertise in government management issues and an excellent reputation for objective, thorough study. The study will assess the ability of intelligence community activities to perform their current and future missions with existing or proposed personnel and compensation systems.

The conference agreement directs the Director of Central Intelligence to contract with NAPA to conduct the study of intelligence personnel systems but it is the expectation of the conferees that the Director will consult with the intelligence committees in his negotiations to select a NAPA team to conduct the study and in the development of essential parameters of that study. The language of the conference agreement also provides that the Director of Central Intelligence, the Director of the Intelligence Community Staff, and all elements of the intelligence community must provide necessary support, including personnel, to the NAPA panel as well as access to all information relating to intelligence personnel and management issues. The conferees further urge the Director of Central Intelligence to ensure that members and staff of the NAPA panel are given every measure of cooperation and that security investigations and review necessary to provide clearances for them are given priority attention.

The NAPA study panel should be tasked with producing interim analytical reports before the required completion of the final report by January 20, 1989. The conferees believe that such interim reports, which should be provided on May 1 and August 1, 1988, could be useful to the intelligence committees and to the intelligence community. The conferees urge the Director to ensure that such interim reports particularly address an analysis of existing or proposed changes to personnel management and compensation systems aimed at recruiting or retaining individuals with skills critical to the various missions of the agencies and entities of the intelligence community. Among the skills of critical importance to a number of such intelligence entities are mathematics, computer science, engineering, and foreign languages.

The conferees are aware that some intelligence agencies may seek to institute changes in their personnel management and compensation programs during the period in which NAPA is conducting the intelligence personnel study. The conferees do not wish to discourage personnel management and compensation improvements implemented within the framework of current programs. However, the purpose of the study is to provide a baseline for a comprehensive review by the intelligence committees of all personnel needs of the intelligence agencies presented in a coherent and coordinated fashion. The conferees believe that significant, non-urgent changes in personnel management or compensation programs should be reviewed very carefully before they are implemented.

The conferees consider the authorized programs for fiscal year 1988 to include only those personnel management and compensation programs in effect at the time the budget was submitted and justified. Significant changes to those programs would be of special Congressional interest and would require submission to the intelligence committees for consideration under established reprogramming or transfer procedures. By "significant," the conferees mean departures from current personnel management

or compensation structures. While the conferees do not intend to discourage needed change, they emphasize that any contemplated significant program change should be submitted well in advance of the date anticipated for implementation. Unless submitted as part of the annual fiscal year 1989 budget request, such proposals should be submitted at least 30 days prior to proposed implementation.

TITLE VIII—GENERAL PROVISIONS

SECTION 801

Section 801 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 801 of the conference report is identical to Section 701 of the House bill and of the Senate amendment.

SECTION 802

Section 802 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 802 of the conference report is identical to Section 702 of the House bill and of the Senate amendment.

TITLE IX—MOUNT ALTO EMBASSY SITE

SECTION 901

Section 901 of the conference report would require a report to Congress from the Secretary of Defense assessing the present and potential capabilities of the government of the Soviet Union to intercept United States communications involving diplomatic, military and intelligence matters from Soviet diplomatic facilities on Mount Alto in the District of Columbia and a determination by the Secretary as to whether or not present or proposed Soviet occupation of facilities on Mount Alto is consistent with the national security of the United States.

Section 901 is identical to Section 801 of the House bill. The Senate amendment contained no comparable provision.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

The House bill contained a provision, Section 105, which reinstated the application of Section 502 of the National Security Act of 1947 as it applied to funds appropriated by the Department of Defense Appropriations Act, 1987, authorized the expenditure of all appropriations in that Act not previously authorized with the exception of two programs, and—with respect to those programs—required that funds appropriated for them be reprogrammed. The Senate amendment contained no comparable provision.

The conferees agreed that inclusion of Section 105 was unnecessary in light of the fact that a similar previously enacted provision (Section 11 of the Supplemental Appropriations Act, 1987, P.L. 100-71) had the effect of reinstating Section 502 and authorizing all previously unauthorized intelligence programs. Further, since the enactment of Section 11 of the Supplemental Appropriations Act, 1987, one of the programs, which Section 105 would have directed be reprogrammed, has since been reprogrammed. Further discussions between the branches concerning the remaining program have determined how the funds in question will be applied and managed.